

REMARKS

Claims 1 and 3-16 are pending in the application. Claims 4-8 and 10-15 are withdrawn by the Examiner. Claims 1, 3, 9 and 16 are rejected. Applicants understand all of the rejections to be based primarily on semantics issues. As Applicants understand the rejections, the Examiner is not willing to allow "about" in the claims when referring to the amino acid positions. Applicants herein make the following changes:

1. Delete "about" in claims 1 and 9;
2. Delete claim 16 as claim 3 is indicated as allowable;
3. Change "N-terminal" to "N-terminus" in claim 1;
4. Correct the minor antecedent basis issues in claims 1, 9 and 16; and
5. Indicate in the specification the express support for the recitations of 20 to 30 amino acids of the C-terminus and 95 to 115 amino acids of the N-terminus, e.g. paragraphs 10, 11, 12 and 22.

Rejection under 35 U.S.C. 112, first paragraph as regards written description

The Examiner rejects claim 9 as allegedly containing new matter because Applicants did not expressly point to support in the specification for the recitations of 20 to 30 amino acids of the C-terminus and 95 to 115 amino acids of the N-terminus, e.g. paragraphs 10, 11, 12 and 22. Applicants respectfully traverse as there is express support as noted at least in these paragraphs.

Rejection under 35 U.S.C. 102

The Examiner rejects claims 9 and 16 under 35 U.S.C. 102(b) as anticipated by Morjana *et al.*, WO 97/19955, alleging that the reference teaches a sequence having 99.7% homology to SEQ ID NO:2 but also having other amino acids. The Examiner rejects claim 16 under 35 U.S.C. 102(e) as anticipated by Potter *et al.*, WO 97/39132, alleging that the reference teaches sequence SEQ ID NO:2 but also having other amino acids.

In the interest of advancing prosecution and securing rapid issuance of a patent, Applicants herein change the claim language to remove “about” in claims 1 and 9 thereby more clearly distinguishing over the references by limiting the sequence claimed to exclude anything beyond the 95-115 amino acid fragment. This change to the claim language even more clearly distinguishes the presently claimed invention from these cited references. Claim 16 is canceled without prejudice.

Rejection under 35 U.S.C. 112, second paragraph

The Examiner rejects claims 1, 9 and 16 as allegedly unclear. The reasons provided are as follows:

1. Claim 1 recites a broad range or limitation together with a narrow range or limitation that falls within the same both in the same claim (alleging that it is unclear how applicants are claiming a polypeptide consisting of an N-terminal fragment where the fragment is longer than SEQ ID NO:2);
2. Claim 1 recites “the N-terminal of human cardiac troponin I” without proper antecedent basis;
3. Claim 9 recites “the N-terminus” and “the C-terminus,” both without proper antecedent basis; and
4. Claim 16 recites “the isolated polypeptide” without proper antecedent basis.

Applicants remove the “about” in claim 1 thereby obviating this rejection. Further, Applicants change the “N-terminal” to “N-terminus” in claim 1 and cancel claim 16 without prejudice thereby obviating the remaining issues regarding clarity.

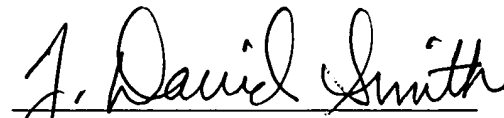
Fees

No fees are believed to be necessitated by the present submission. However, should this be in error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or to credit any overpayments.

CONCLUSION

Entry of the foregoing reply into the record is respectfully requested. An early allowance is earnestly sought.

Respectfully submitted,

A handwritten signature in cursive script that reads "J. David Smith". The signature is written in dark ink and is positioned above a horizontal line.

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